

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MASSACHUSETTS**

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HAO WU, Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

v.

TOKAI PHARMACEUTICALS, INC., ET AL.,

Defendants.

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Case No.: 1:16-cv-12550-MLW

**TOKAI DEFENDANTS’  
UNOPPOSED MOTION FOR LEAVE  
TO FILE SUPPLEMENTAL  
AUTHORITY IN CONNECTION  
WITH DEFENDANTS’ OPPOSITION  
TO REMAND MOTION**

The Tokai Defendants hereby move for leave to file the attached recent decisions, in *City of Birmingham Retirement & Relief System v. ZTO Express (Cayman), Inc.*, 2017 U.S. Dist. LEXIS 142450 (N.D. Ala., Aug. 28, 2017), and *St. Lucie County Fire District Firefighters' Pension Fund v. Southwestern Energy Co.*, Case No. 4:16-CV-3569 (S.D. Tex. Sept. 5, 2017). Plaintiff has assented to this motion.

Like the present action, *ZTO Express* and *Southwestern* involved claims under Sections 11, 12(a)(2), and 15 of the federal Securities Act of 1933. The complaints were initially filed in state courts in Alabama and Texas, respectively, and removed to United States District Court by defendants. Plaintiffs move to remand. In both cases, the District Courts denied without prejudice plaintiffs' motions to remand and stayed proceedings pending the Supreme Court's upcoming resolution of the remand question in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 137 S. Ct. 2325 (2017) (granting *certiorari*).

The Tokai Defendants respectfully submit that the Court should either deny Plaintiff's Remand Motion (for the reasons stated in Defendants' Opposition) or defer consideration (as in *ZTO Express* and *Southwestern*) until the Supreme Court's ruling in *Cyan*.

Dated: September 8, 2017

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**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that counsel for Defendants Tokai Pharmaceuticals, Inc., Jodie Pope Morrison, Lee H. Kalowski, Seth L. Harrison, Timothy J. Barberich, David A. Kessler, and Joseph A. Yanchik, III conferred in good faith with counsel for Plaintiff Wu and counsel for Defendants BMO Capital Markets Corp., Stifel, Nicolaus & Company Incorporated, William Blair & Company L.L.C., and Janney Montgomery Scott LLC, who stated that they do not object to the submission of the attached decisions to the Court.

Date: September 8, 2017

/s/ Michael J. Pineault  
Michael J. Pineault

**CERTIFICATE OF SERVICE**

I, Michael J. Pineault, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on September 8, 2017.

/s/ Michael J. Pineault  
Michael J. Pineault